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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/387,317 08/31/99 DOBBINS

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EXAMINER

SAM.F

ART UNIT

PAPER NUMBER

2732

DATE MAILED:

04/26/00

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/387,317**

Applicant(s)  
**DOBBINS et al.**

Examiner  
**Phirin Sam**

Group Art Unit  
**2732**



☒ Responsive to communication(s) filed on Aug 31, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-53 is/are pending in the applicat

Of the above, claim(s) 1-17 is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 18-53 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claims Cancellation*

1. The request for cancel claim(s) 1-17 without prejudice or disclaimer has been noticed and entered.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 18-53 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4-24, and 27 of U. S. Patent No. 5,946,308. Although the conflicting claims are not identical, they are not patentably distinct from each other because, for instance, in claim 1 of US Patent No. 5,946,308 teaches or suggests "A method of restricted flooding of a data packet . . . ." while claim 18 of application teaches or suggests "A computer-readable storage medium

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comprising program instructions for restricted flooding of a data packet . . . ” The only difference is the claim 1 of US Patent teaches the method of operation while claim 18 of application teaches the hardware for storing the program instructions of operation and main limitations are very common to each other.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krause (U.S. Patent 6,005,864) in view of Ross (U.S. Patent 5,394,402).

Krause teaches or suggests the invention (claim 42) as claimed including a computer software, residing on a computer-readable storage medium, comprising instructions for use in a switch in a switched communications network including a plurality of end systems, the computer software for restricting flooding of a data packet selected from the group consisting of a broadcast packet, a multicast packet, and an unknown destination packet of a protocol not supported by a call processor in a switch which receives the data packet, the instructions causing the switch to:

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- (a) assign at least one identifier to a respective subset of end system (e.g., see Figs. 1-3, col. 2, lines 15-36, col. 4, lines 59-67, col. 5, lines 29-35, and col. 6, lines 45-60).
- (b) map the at least one assigned identifier to an access port of the access switch attached to at least one end system in the respective subset of end system (e.g., see Figs. 1-3, col. 2, lines 37-51, col. 4, lines 59-67, col. 5, lines 1-35, and col. 6, lines 28-45).
- (c) upon receipt of the data packet at the access switch, encapsulate the data packet with the at least one identifier assigned to a source end system of the data packet, to forward the encapsulated packet to all or a subset of other switches in the network, and to send the original data packet to access ports having the at least one identifier (e.g., see Figs. 1-4, col. 2, lines 37-51, col. 5, lines 36-67, col. 6, lines 61-67, and col. 7, lines 1-28).
- (d) upon receipt of the encapsulated packet at a receiving switch, de-encapsulate the packet and to forward the de-encapsulated packet to the access ports having the at least one identifier (e.g., see Figs. 3-4, col. 7, lines 29-67, and col. 8, lines 1-29).

Krause does not clearly teach or suggest upon receipt of the encapsulated packet at a receiving switch, de-encapsulate the packet and to forward the de-encapsulated packet to the access ports. However, Ross teaches or suggests these features in more detail (e.g., see Figs. 1-5, col. 8, lines 60-66, and col. 10, lines 20-33). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the reception of the encapsulated packet, de-encapsulate the

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packet, and to forward the de-encapsulated packet to the access ports teaching by Ross with the method of managing the transfer of multiple destination packets receiving at edge devices teaching by Krause in computer software residing on the computer-readable storage medium because de-encapsulating the packet provides to recover the virtual local area network destination and the original message content.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Varghese et al. (U.S. Patent 5,963,556) is cited to show the device for partitioning ports of a bridge into groups of different VLANs.

(2) Lyon et al. (U.S. Patent 5,920,705) is cited method and apparatus for dynamically shifting between routing and switching packets in a transmission network.

(3) Burwell et al. (U.S. Patent 5,818,842) is cited to show the transparent interconnector of LANs by an ATM network.

(4) Hart (U.S. Patent 5,752,003) is cited to show the architecture for managing traffic in a virtual LAN environment.

(5) Raab et al. (U.S. Patent 5,751,967) is cited to show the method and apparatus for automatically configuring a network device to support a virtual network.

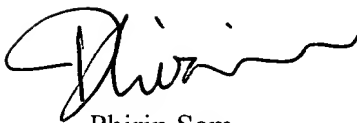
(6) Burnett et al. (U.S. Patent 5,444,702) is cited to show the virtual network using ATM.

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7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner, Phirin Sam whose telephone number is (703) 308-9294. The Examiner can normally be reached on Monday - Friday from 9:00 a.m. - 4:00 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Douglas W. Olms, can be reached on (703) 305-4703. The fax number for this Group is (703) 305-3988.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.



Phirin Sam  
Patent Examiner  
April 12, 2000



DANG TON  
PRIMARY EXAMINER